

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

JANE DOE, et al.

Plaintiffs,

vs.

HOWARD ZUCKER, et al.

Defendants.

Civil Action No.: 1:20 – CV – 0840 (BKS/CFH)

DECLARATION OF B.B. IN SUPPORT OF
PLAINTIFFS' MOTION FOR A PRELIMINARY
INJUNCTION

B.B. pursuant to 28 U.S.C. § 1746 declares under penalty of perjury as follows:

1. I am the parent of a medically fragile child who sought a medical exemption in Richmond County, Staten Island school district in New York.
2. I write this affidavit in support of the Plaintiffs' motion for a preliminary injunction and as a potential class member in this suit.
3. My child has the MTHFR A1298C mutation, which predisposes to severe adverse reactions due to an inability to properly methylate and detoxify vaccine components. My child had a severe allergic reaction to a previous vaccination. The reaction consisted of a febrile seizure, crossing of the eye towards the nose, "dancing" eye syndrome, severe headaches, vomiting, high fever, sensitivity to light and irritability. Several doctors informed us that continuing with vaccination is detrimental to my child's health and that the risks outweigh the benefits.

DECLARATION OF B.B. IN SUPPORT OF PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION - 1

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4. At the start of the 2019 school year, we submitted a medical exemption written by three physicians licensed to practice in New York who are all familiar with my child (a pediatrician, ophthalmologist, and a neurologist).
5. My child's immunization exemption request was denied without an explanation. As of today, I still do not know the criteria that were used to judge the medical exemption and we were never given the chance to discuss or contest said criteria. The impersonal letter only stated "Your request for medical immunization exemption your child has been denied. Your request was reviewed by a doctor at the NYC Department of Health and Mental Hygiene's Office of School Health. The records provided by your child's health care provider(s) do not meet standards needed to exempt your child from receiving immunization (s) that are required to attend school."
6. When I called the Office of School Health (the number provided on the denial letter) and asked to speak and/or meet with the doctor who *recommended* this decision, the Health Services Coordinator, Jason Wright, stated that the physician does not speak to parents directly and that is their policy.
7. At this point, I contacted the ophthalmologist to provide the additional medical records explaining the severity of the previous adverse reaction. The ophthalmologist filled out the form and then yet again I received the *same exact letter* in the mail stating that the information submitted by the ophthalmologist has been denied.
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8. At this point, I called my child's pediatrician and was informed that a doctor at the NYC Department of Health and Mental Hygiene contacted my child's pediatrician and was very rude, stating that my child's medical exemption will be denied unless we provide further documentation from a neurologist. Specifically, he stated that my child's reaction must have been documented by a neurologist within 10 days of the immunization reaction. Although we did go to a neurologist eventually after the adverse reaction, we had initially taken our child to the ophthalmologist since the febrile seizure resulted in eye crossing, light sensitivity, and "dancing" eye syndrome.

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9. Nevertheless, we went to the neurologist to fill out the form. The neurologist was in agreement and also feels that the strong history of vaccine reaction should be monitored with extreme caution. Yet again we received exactly the same letter and were again at risk for getting kicked out of school.

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10. I felt like I have exhausted all my options to keep my child safe. We had 3 different physicians all stating that my child is not a candidate to receive further vaccinations and my pediatrician does not feel at ease going against her/his recommendations. This upcoming school year, yet again, I would be required to resubmit all paperwork to a doctor that has *never met* my child and does not have complete access to their medical history.

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11. At this point, I do not even know if my pediatrician would be willing to *again* complete the paperwork and be vulnerable to the scrutiny of the doctors at the NYC Department of

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2 Health and Mental Hygiene. Nevertheless, this third party's *recommendation* unjustly
3 overrules the professional judgment made by my child's team of doctors.
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5 12. Additionally, after the notification of the decision, *the principal or person in charge of a*
6 *school is responsible for making the final determination on the medical exemption*
7 *request*. The final determination should not be decided by an individual who has never
8 met my child and does not have a medical license. This is not ethical!
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10 13. It is imperative to note that since the DOH implemented an approved catch-up schedule, I
11 am frightened to even think how this aggressive schedule will impact my fragile child if I
12 was required to vaccinate against my will and against the recommendation of my child's
13 three treating physicians. This accelerated schedule, given with a short time, combining
14 multiple shots in one visit has *never* been tested and studied. I'm beyond devastated and
15 very nervous about going through this treacherous process this year protecting my child's
16 health and wellbeing.
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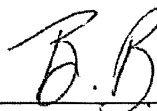
18 14. The ACIP guidelines were never intended to replace a physician's clinical judgment,
19 where the clinician believes vaccination can cause serious injury to a child. Hence,
20 requiring a parent to act contrary to the judgment of their child's doctor, who takes into
21 consideration the child's medical history, is just not acceptable. ACIP guidelines do not
22 define medical exemptions and they are evolving documents that are not a one-fits-all!
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24 15. Wherefore, I respectfully ask this Court to grant the relief and let our children remain in
25 school pending the outcome of this case.
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27 DECLARATION OF B.B. IN SUPPORT OF PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION - 4
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2 RESPECTFULLY SUBMITTED this 7th day of August, 2020
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27 DECLARATION OF B.B. IN SUPPORT OF PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION - 5
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